

¹ The Board notes that, following the February 24, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

arrived home, his lip was swollen. Appellant called his supervisor to inform him of the situation and left for the emergency room. While *en route* to the emergency room, he called 911 at approximately 3:45 p.m. as his tongue, mouth, and throat began to swell. Appellant indicated that one of the active ingredients in the Oxivir antiseptics wipes, Dodocylbenzene sulfuric acid, had caused him allergic reactions since he was a child.

Appellant submitted a safety data sheet for Oxivir TB, a photograph of his swollen lip, a July 19, 2019 hospital after visit summary, a July 19, 2019 hospital emergency department encounter, signed by Dr. Paul E. Numsen, an osteopath Board-certified in emergency medicine, and a July 19, 2019 patient care report. In response to OWCP's January 22, 2020 development letter, which advised appellant of the deficiencies in the medical evidence and the type of medical evidence needed to support his claim, appellant submitted a February 17, 2020 report from Dr. Gary A. Mohr, a family medicine specialist.

By decision dated February 24, 2020, OWCP denied the claim, finding that "the medical evidence of record does not demonstrate that the claimed medical condition is related to the established work-related event(s)...." It also denied appellant's claim "because the factual component of the third basic element, Fact of Injury, has not been met." The decision continued that "the evidence does not support that the injury and/or event(s) occurred."

The Board, having duly considered the matter, finds that this case is not in posture for decision.² FECA provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as it considers necessary with respect to the claim.³ The reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁴

In the February 24, 2020 decision, OWCP initially found that the medical evidence did not demonstrate the claimed medical condition was related to the established work-related event(s). However, it further found that the evidence did not support that the claimed event(s) occurred as alleged. As these findings are conflicting, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision, as well as the precise defect and the evidence needed to overcome the denial of his traumatic injury claim.⁵

² See *M.H.*, Docket No. 19-1187 (issued August 7, 2020); *N.M.*, Docket No. 17-0262 (issued July 3, 2017).

³ 5 U.S.C. § 8124(a)(2); 20 C.F.R. § 10.125.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5(c) (February 2013). See *B.S.*, Docket No. 20-1008 (issued November 13, 2020); *G.S.*, Docket No. 14-1933 (issued November 7, 2014).

⁵ *N.D.*, Docket No. 20-0131 (issued September 11, 2020); *J.S.*, Docket No. 18-0513 (issued March 1, 2019); *R.M.*, Docket No. 19-0163 (issued July 17, 2019); *K.J.*, Docket No. 14-1874 (issued February 26, 2015); *J.J.*, Docket No. 11-1958 (issued June 27, 2012).

Accordingly, the Board will remand the case to OWCP to make appropriate findings regarding appellant's traumatic injury claim. Following this and other such development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the February 24, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: January 13, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board